

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

MICHAEL OGDEN, M.D.

License No. 11188
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-07-0480A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND AND
PROBATION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Michael Ogden, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement or any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any

1 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
2 other pending or future investigation, action or proceeding. The acceptance of this
3 Consent Agreement does not preclude any other agency, subdivision or officer of this
4 State from instituting other civil or criminal proceedings with respect to the conduct that is
5 the subject of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof)
13 to the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that
21 will be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

5 12. *Respondent has read and understands the condition(s) of probation.*

7 Michael Ogden, M.D.
8 MICHAEL OGDEN, M.D.

DATED: 6-15-08

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2 **FINDINGS OF FACT**

3 1. The Board is the duly constituted authority for the regulation and control of
4 the practice of allopathic medicine in the State of Arizona.

5 2. Respondent is the holder of license number 11188 for the practice of
6 allopathic medicine in the State of Arizona.

7 3. The Board initiated case number MD-07-0480A after receiving a complaint
8 alleging Respondent did not perform a physical examination prior to prescribing
9 medication on an eight year-old female patient ("AD") and a four year-old male patient
10 ("JD").

11 4. During an investigational interview with Board Staff on June 15, 2007,
12 Respondent admitted treating his grandchildren AD and JD and prescribing them
13 medication without performing a physical examination. Specifically, there was no
14 documentation of laboratory studies, blood pressure, temperature and pulse and
15 respiratory rates. Following the interview, AD and JD's patient records were reviewed.

16 5. In 1998, Respondent provided psychiatric care for AD and JD for Attention
17 Deficit Hyperactivity Disorder (ADHD). Respondent treated them with stimulant Class II
18 medications. There was no documentation that Respondent performed physical
19 examinations on AD and JD prior to prescribing the medication. Additionally, there was no
20 documentation that Respondent was AD and JD's grandfather.

21 6. AD was later diagnosed by another physician with mild cerebral palsy,
22 complicating the primary or secondary factors of her ADHD. Despite being diagnosed with
23 cerebral palsy, Respondent continued to treat her with stimulant medications for ADHD
24 without performing a physical examination. Additionally, JD was followed by a neurologist
25 for seizures. Again, Respondent continued to treat him with stimulant medication for ADHD
without performing a physical examination. Specifically, Respondent did not document

1 their blood pressure, temperature and pulse and respiratory rates; sleep and appetite
2 problems with stimulants or possible side effects from the stimulant medication.

3 7. In June 2004, Respondent transferred AD and JD from his private office to
4 the public sector where he continued to prescribe stimulant medication for ADHD without
5 performing a physical examination. Again, there was no documentation that Respondent
6 was AD and JD's grandfather. Additionally, Respondent did not document AD and JD's
7 family history and that AD was diagnosed with cerebral palsy.

8 8. The standard of care in psychiatry includes maintaining objective, rational
9 and appropriate boundaries with patients at all times.

10 9. Respondent deviated from the standard of care because he did not maintain
11 objective, rational and appropriate boundaries with AD and JD because he treated them
12 for several years without documenting his relationship and not actively seeking alternative
13 care for them.

14 10. Respondent's failure to maintain appropriate boundaries could have
15 resulted in possible loss of objectivity regarding his grandchildren's ADHD needs.

16 11. A physician is required to maintain adequate legible medical records
17 containing, at a minimum, sufficient information to identify the patient, support the
18 diagnosis, justify the treatment, accurately document the results, indicate advice and
19 cautionary warnings provided to the patient and provide sufficient information for another
20 practitioner to assume continuity of the patient's care at any point in the course of
21 treatment. A.R.S. § 32-1401(2). Respondent's private practice records for AD and JD did
22 not provide sufficient, adequate, average or prudent standard information as they were
23 extremely brief and written in a linear fashion.

1 **CONCLUSIONS OF LAW**

2 1. The Board possesses jurisdiction over the subject matter hereof and over
3 Respondent.

4 2. The conduct and circumstances described above constitute unprofessional
5 conduct pursuant to A.R.S. § 32-1401(27)(e) ("[f]ailing or refusing to maintain adequate
6 records on a patient.") and A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or
7 might be harmful or dangerous to the health of the patient or the public.").

8 **ORDER**

9 IT IS HEREBY ORDERED THAT:

10 1. Respondent is issued a Letter of Reprimand for treating his grandchildren for
11 several years without documenting his relationship in the records and actively seeking
12 alternative care for the grandchildren and failure to maintain adequate medical records.

13 2. Respondent is placed on probation for **one year** with the following terms and
14 conditions:

15 A. **Continuing Medical Education**

16 Respondent shall within **one year** of the effective date of this Order obtain **10**
17 **hours** of Board Staff pre-approved Category I Continuing Medical Education (CME) in
18 **psychiatric record keeping** and provide Board Staff with satisfactory proof of attendance.
19 The CME hours shall be in addition to the hours required for the biennial renewal of
20 medical license.

21 B. **Chart Reviews**

22 Board Staff or its agents shall conduct random chart reviews. Based upon
23 the chart review, the Board retains jurisdiction to take additional disciplinary or remedial
24 action.

1 C. Obey All Laws

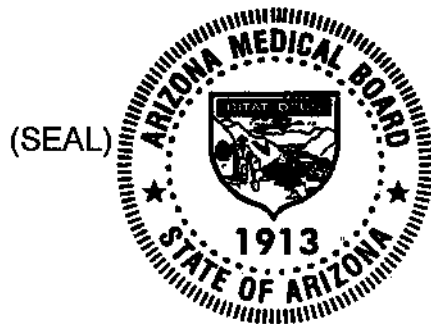
2 Respondent shall obey all state, federal and local laws, all rules governing
3 the practice of medicine in Arizona, and remain in full compliance with any court ordered
4 criminal probation, payments and other orders.

5 D. Tolling

6 In the event Respondent should leave Arizona to reside or practice outside
7 the State or for any reason should Respondent stop practicing medicine in Arizona,
8 Respondent shall notify the Executive Director in writing within ten days of departure and
9 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
10 time exceeding thirty days during which Respondent is not engaging in the practice of
11 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
12 non-practice within Arizona, will not apply to the reduction of the probationary period.

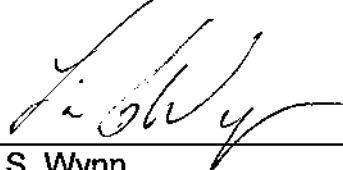
13 3. This Order is the final disposition of case number MD-07-0480A.

14 DATED AND EFFECTIVE this 11th day of August, 2008.



ARIZONA MEDICAL BOARD

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19 By


Lisa S. Wynn
Executive Director

20 ORIGINAL of the foregoing filed
21 this 11th day of Aug, 2008 with:

22 Arizona Medical Board
23 9545 E. Doubletree Ranch Road
24 Scottsdale, AZ 85258
25

1 EXECUTED COPY of the foregoing mailed
2 this 1st day of August, 2008 to:

3 Mark J. Ogden, Esq.
4 Littler Mendelson P.C.
5 2425 E Camelback Road, Suite 900
6 Phoenix, AZ 85016-4242

7 EXECUTED COPY of the foregoing mailed
8 this 1st day of August, 2008 to:

9 Michael Ogden, M.D.
10 Address of Record

11 Chris Bangs
12 Investigational Review
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